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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,693	02/15/2001	G. I. Negueloua	A00360US	4534

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GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE, LA 70002

EXAMINER

HARTMANN, GARY S

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,693

Applicant(s)

NEGUELOUA, G. I.

Examiner

Gary Hartmann

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 2 is objected to because it is unclear what the characteristics are with respect to lead. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6, 8-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Calixto (U.S. Patent 5,531,455).

Calixto discloses a cap having a flexible body member (1) having cap (2) and leg (5) portions. There are a plurality of ridges (6) positioned across the entire underside of the cap portion contacting sealant (adhesive). The ridges define an increased area. The leg portion is insertable into fluidized sealant material within a joint between adjacent blocks (Figure 3); thereby providing a sealed connection between the cap portion and the material residing in the joint and on upper surfaces of adjacent blocks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3671

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calixto as applied above.

It is common to remove excess sealant material before it sets in order to obtain a clean finished surface. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have removed excess sealant of Calixto.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marble (U.S. Patent 2,016,968) in view of Calixto, as applied above.

Marble discloses a cap between adjacent blocks (5, 6) and comprising a cap portion (8), a leg portion (9) insertable into fluidized sealant material (7). Marble does not teach the ridges positioned on the underside of the cap portion. Calixto teaches using ridges as claimed in order to increase the area of adhesion; thereby preventing movement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the ridges of Calixto with the cap of Marble in order to prevent cap movement, as taught by Calixto.

Marble teaches lead as a material of construction (column 2, lines 22-24).

Marble includes the pointed end (10).

Marble positions the seal between horizontal and vertical surfaces (Figure 4).

Marble discloses the method steps.

Claims 2, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calixto as applied above and further in view of Marble, as applied above.

Art Unit: 3671

Calixto doesn't teach lead as a material of construction; however, Marble teaches a cap constructed of lead. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used lead as the material of construction for Calixto in order to obtain a cap suitable for a particular application, in accordance with the teaching of Marble.

Regarding claim 5, Calixto does not teach the joint between horizontal and vertical surfaces; however, it is well known that joints exist in such configurations. For example, Marble teaches optionally sealing between planar surfaces only (Figure 2) or perpendicular surfaces (Figure 4). Given the teaching of Marble and the flexible configuration of the cap of Calixto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned the cap in a joint between horizontal and vertical surfaces in order to properly seal that joint.

Regarding claim 7, Calixto does not teach caulk; however, it is well known to use caulk in joints in order to obtain a weather tight seal, as exemplified by Marble. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used caulk in the joint of Calixto in order to obtain a weather tight seal.

Response to Arguments

Applicant's arguments filed January 12, 2005 have been considered but are moot in view of the new ground(s) of rejection. Regarding the affidavit, the amended claims do reflect the deficiencies of Marble compared to the present invention; however, the examiner maintains that increasing surface area by using ridges was well known and in use prior to the filing of the present application, as exemplified by the Calixto reference.

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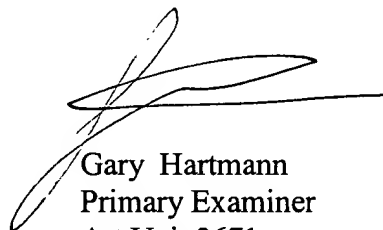
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gary Hartmann
Primary Examiner
Art Unit 3671